

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA

Case No: 5:08-hc-02160-BO

GERALD WAYNE TIMMS,)	
)	
Petitioner,)	
)	
v.)	
)	
TRACY JOHNS, Warden, FCI Butner,)	RESPONSE IN OPPOSITION TO
)	MOTION TO EXTEND TIME TO
Respondent.)	RESPOND TO AMENDED PETITION
)	FOR WRIT OF <i>HABEAS CORPUS</i>
)	

Now comes Petitioner Gerald Wayne Timms, by and through counsel, and respectfully objects to Respondent's Motion to Extend Time to Respond to Amended Petition for Writ of *Habeas Corpus*.

Petitioner and Petitioner's counsel would ordinarily, out of professional courtesy, consent to the requested extension and do not withhold their consent lightly. However, in the present case, the extension requested would again extend what Petitioner and his counsel believe to be the unconstitutional, indefinite detention of Petitioner, which has continued unabated for approximately 14 months. This reality, and the short schedule the Court previously forecasted at the December 28 status conference held in this matter, counsel against their consent to such an extension.

Notwithstanding Petitioner's objection to Respondent's Motion, and in order to allow Respondent the additional time it requests to more fully respond to Petitioner's Amended Petition for Writ of *Habeas Corpus*, Petitioner would willingly consent to the requested extension provided that a probable cause hearing be held immediately.

Respectfully submitted this the 15th day of January, 2010.

/s/ Kearns Davis

Kearns Davis

N.C. State Bar No. 22014

/s/ Andrew T. Tripp

Andrew T. Tripp

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CERTIFICATE OF SERVICE AND FILING

The undersigned hereby certifies that the foregoing Response was filed electronically with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

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This the 15th day of January, 2010.

/s/ Andrew T. Tripp
Andrew T. Tripp